

CLARK HILL

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Kathryn Ross
Date: 2018.01.10
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December 14, 2017

Jeff S. Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463
VIA EMAIL: CELA@fcc.gov

Re: **MUR 7290; Response to Complaint from Claudia Tenney for Congress**

Dear Mr. Jordan:

We are writing this letter on behalf of Claudia Tenney for Congress, the principal campaign committee for Congresswoman Claudia Tenney in New York's 22nd Congressional District, and Lisa Lisker, in her official capacity as Treasurer (collectively, the "Committee"), in response to the Complaint filed in the above-referenced matter by William R. Thickstun, a Democrat operative and former Chairman of the Oneida County Democratic Committee, which endorsed Congresswoman Tenney's Democrat opponent in 2016.¹ The Complaint was clearly filed for publicity and political gain and is based solely on a gross misapplication of federal law. The asserted facts on their face do not support a reason to believe finding in this matter, and the Complaint should be immediately dismissed.

The Federal Election Commission (the "Commission") may find "reason to believe" only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Federal Election Campaign Act (the "Act"). See 11 CFR §§ 111.4(a), (d). Unwarranted legal conclusions from asserted facts or mere speculation will not be accepted as true. See MUR 4960, Commissioners Mason, Sandstrom, Smith and Thomas, Statement of Reasons (Dec. 21, 2001). Moreover, the Commission will dismiss a complaint when the allegations are refuted with sufficiently compelling evidence. See *id.*

¹ *Oneida County Democrats endorse candidates*, UTICA OBSERVER-DISPATCH, May 23, 2016, available at <http://www.uticaod.com/news/20160523/oneida-county-democrats-endorse-candidates>.

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The single page complaint centers on a town hall event held by Congresswoman Tenney on September 19, 2017 in Camden, NY. Specifically, the Complaint alleges that the Committee failed to report a payment for the private security services it engaged for the event. The Complaint also takes issue with Congresswoman Tenney's use of campaign funds, instead of funds from her official office, to pay for such security services. Neither allegation is supported by the law or facts.

It should be noted at the outset that it is not surprising to hear a liberal Democrat criticize a Member of Congress for saving taxpayer money by using campaign funds to pay for costly private security services instead of putting them on the government dime. After all, the Complaint was filed by the same William Thickstun who believes that "[i]f we want to hold politicians accountable to the people, the people need to be the ones paying their expenses."² Congresswoman Tenney would rather save the taxpayers money when she is legally able to do so through her campaign account, which is why she paid for the September 19th town hall event and related security costs with campaign funds. As the Commission has long held, paying for security measures related to an officeholder's campaign or official duties is a permissible use of campaign funds. *See generally*, 52 U.S.C. § 30114(a); 11 CFR § 113.2(a). *See also*, Advisory Opinions 2017-07 (Sergeant at Arms); 2011-17 (Giffords); 2011-05 (Terry); 2009-08 (Gallegly). Furthermore, it was unquestionably reasonable for Congresswoman Tenney to hire security services for her town hall event in light of threats she received following the horrific June 14th shooting at the Republican congressional baseball game practice.³

The Complaint then alleges that the Committee failed to disclose payments for these private security services on its October quarterly report. As an initial matter, the Committee did not even receive invoices for the September 19th town hall security services until early October, after the September 30th cutoff for the October quarterly reporting period. Once the Committee received the relevant invoices, they were promptly paid by the Committee's treasurer on October 4th and October 19th. Accordingly, these payments will be reflected on the Committee's 2017 year-end report.

Furthermore, none of the security-related invoices exceeded \$500. The first invoice, from Professional Investigations & Process Services Inc. in Rome, NY was for \$350, and included security guards and metal detection services.⁴ Then there were fifteen (15) separate invoices⁵ for Village of Camden law enforcement personnel to provide security at the September 19th event. These services were not payable to the Village of Camden, but instead to each individual officer for \$75. The Commission's regulations make clear that:

² William Thickstun, *Campaign Funding*, CLINTON COURIER, Mar. 5, 2015, available at <http://www.billthickstun.com/?p=18>.

³ Jimmy Vielkind, *Tenney gets email threat, calls for calmer rhetoric*, POLITICO, Jun. 14, 2017, available at <https://www.politico.com/states/new-york/albany/story/2017/06/14/tenney-gets-email-threat-calls-for-calmer-rhetoric-112757>.

⁴ See Exhibit A.

⁵ See Exhibit B.

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A debt or obligation, including a loan, written contract, written promise or written agreement to make an expenditure, the amount of which is \$500 or less, shall be reported as of the time payment is made or not later than 60 days after such obligation is incurred, whichever comes first.

11 CFR § 104.11(b).

In this case, none of the security-related invoices for the September 19th town hall exceeded \$500. Therefore, in accordance with the foregoing regulation, these payments will be reported as of the time payment was made and reflected on the Committee's year-end report.⁶

In presenting politically-motivated and factually and legally unsubstantiated arguments, Mr. Thickstun has failed to demonstrate that the Committee has violated any provision of the Act or the Commission's regulations. Instead, he has invoked an administrative process as a means to assault his political opponents. We therefore respectfully request that the Commission recognize the legal and factual insufficiency of the Complaint on its face and immediately dismiss it.

Thank you for your prompt consideration of these matters, and please do not hesitate to contact me directly at (202) 772-0915 with any questions.

Respectfully submitted,



James E. Tyrrell III
David M. Powers
*Counsel to Claudia Tenney for Congress
And Lisa Lisker as Treasurer*

Enc.

⁶ It should be noted that because the Committee's payment of \$75 to each individual law enforcement officer is below the \$200 per election cycle threshold for itemization on Schedule B, these payments are not required to be itemized on the Committee's year-end report. See 104.3(b)(4)(i).

CLARK HILL

Exhibit

A

07/11/2001

Professional Investigations & Process Services Inc.

PO Box 945
 Rome, NY 13442
 Email: rperoni@pipssecurity.com

Office Toll Free: 1-877-545-3555
 Cell: 315-335-2000
 Fax: 315-339-5111

Invoice No:
10150

INVOICE

Please make checks payable to: P.I.P.S.I.
 Submit Canary Copy with Payment

Date: 10/9/17

Bill to:

Congress Claudia Tenney
office of

Terms Due Upon Receipt 75% Aft 14 Days
 WE ACCEPT ALL MAJOR CREDIT CARDS
 We serve all of New York State and the Nation upon request 24/7

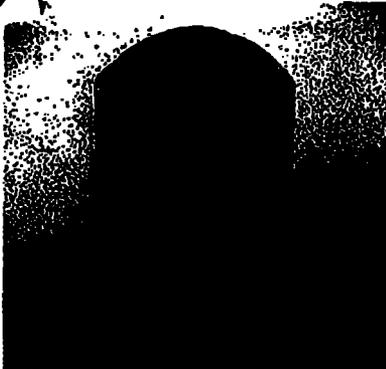
www.pipssecurity.com

DESCRIPTION	DATE	AMOUNT
<u>Security Detail Canaan NY</u>		
<u>man metal detector at door + check tickets</u>		
<u>1 man unarmed spn - 83p</u>	<u>9/19</u>	<u>17500</u>
<u>1 man unarmed Ipn 83p</u>	<u>9/19</u>	<u>17500</u>
<u>4 hrs min rate per man</u>		
File Papers:		
Locate:		
Copies:		
RUSH:		
Postage:	<u>NY Sales Tax</u>	<u>9/19</u> <u>(except)</u>
Mileage: miles @ per mile:		
Thank You For Your Business	TOTAL	<u>35000</u>

THIS BUSINESS IS LICENSED BY THE NEW YORK STATE, DEPARTMENT OF STATE, DIVISION OF LICENSING SERVICES

Exhibit

B



Village of Camden

Police Department

Chief Daniel T. Maher

57 Main Street

Camden, NY 13316

Office: (315) 245-2022

Fax: (315) 245-4175

Law Enforcement and Security Detail Voucher

Date: 9/19/2017

Event: Claudia Tenney Campaign Event

Location: Nicole's of Camden, 9501 NY-13, Camden, NY 13316

Officer/Individual: Steve Klive

Event Detail Pay Rate: \$75.00

Payment Address: _____

Bearville NY 13309

Organization Authorizing Payment: Claudia For Congress

Authorizing Official: Brett Wakeman Phone:

Date: 9/19/2017



Village of Camden

Police Department
Chief Daniel T. Maher
57 Main Street
Camden, NY 13316
Office: (315) 245-2022
Fax: (315) 245-4175

Law Enforcement and Security Detail Voucher

Date: 9/19/2017

Event: Claudia Tenney Campaign Event

Location: Nicole's of Camden, 9501 NY-13, Camden, NY 13316

Officer/Individual: DARCY BLOSS

Event Detail Pay Rate: \$75.00

Payment Address: _____

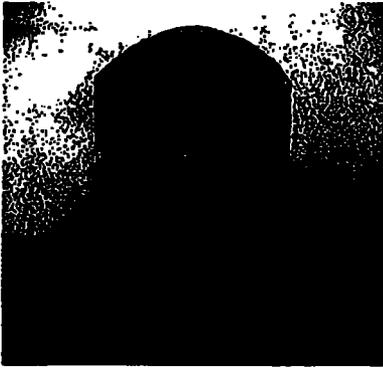
Oriskany, N.Y. 13421

Organization Authorizing Payment: Claudia For Congress

Authorizing Official: Brett Wakeman Phone: _____

Date: 9/19/2017

1004444001



Village of Camden

Police Department
Chief Daniel T. Maher
57 Main Street
Camden, NY 13316
Office: (315) 245-2022
Fax: (315) 245-4175

Law Enforcement and Security Detail Voucher

Date: 9/19/2017

Event: Claudia Tenney Campaign Event

Location: Nicole's of Camden, 9501 NY-13, Camden, NY 13316

Officer/Individual: Marden Landry

Event Detail Pay Rate: \$75.00

Payment Address: Rome NY

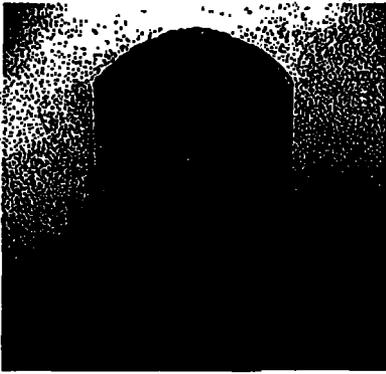
13440

Organization Authorizing Payment: Claudia For Congress

Authorizing Official: Brett Wakeman **Phone:**

Date: 9/19/2017

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Village of Camden

Police Department
Chief Daniel T. Maher
57 Main Street
Camden, NY 13316
Office: (315) 245-2022
Fax: (315) 245-4175

Law Enforcement and Security Detail Voucher

Date: 9/19/2017

Event: Claudia Tenney Campaign Event

Location: Nicole's of Camden, 9501 NY-13, Camden, NY 13316

Officer/Individual: Robert Snider

Event Detail Pay Rate: \$75.00

Payment Address: _____

Rome, NY 13440

Organization Authorizing Payment: Claudia For Congress

Authorizing Official: Brett Wakeman Phone:

Date: 9/19/2017

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Village of Camden

Police Department
Chief Daniel T. Maher
57 Main Street
Camden, NY 13316
Office: (315) 245-2022
Fax: (315) 245-4175

Law Enforcement and Security Detail Voucher

Date: 9/19/2017

Event: Claudia Tenney Campaign Event

Location: Nicole's of Camden, 9501 NY-13, Camden, NY 13316

Officer/Individual: Jennifer TABOLT

Event Detail Pay Rate: \$75.00

Payment Address: 13149 STATE RT 12

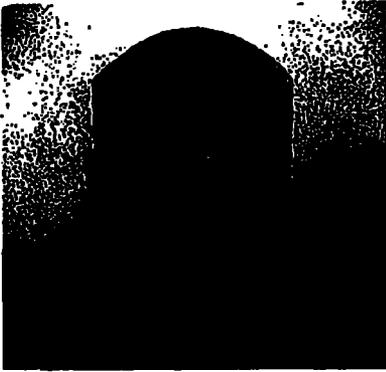
Bonville NY 13309

Organization Authorizing Payment: Claudia For Congress

Authorizing Official: Brett Wakeman Phone:

Date: 9/19/2017

110097410001



Village of Camden

Police Department

Chief Daniel T. Maher

57 Main Street

Camden, NY 13316

Office: (315) 245-2022

Fax: (315) 245-4175

Law Enforcement and Security Detail Voucher

Date: 9/19/2017

Event: Claudia Tenney Campaign Event

Location: Nicole's of Camden, 9501 NY-13, Camden, NY 13316

Officer/Individual: Timothy Leos

Event Detail Pay Rate: \$75.00

Payment Address: 57 MAIN STREET

CAMDEN, NY 13316

Organization Authorizing Payment: Claudia For Congress

Authorizing Official: Brett Wakeman Phone:

Date: 9/19/2017

100444001



Village of Camden

Police Department
Chief Daniel T. Maher
57 Main Street
Camden, NY 13316
Office: (315) 245-2022
Fax: (315) 245-4175

Law Enforcement and Security Detail Voucher

Date: 9/19/2017

Event: Claudia Tenney Campaign Event

Location: Nicole's of Camden, 9501 NY-13, Camden, NY 13316

Officer/Individual: Sean Redden

Event Detail Pay Rate: \$75.00

Payment Address: 57 MAIN STREET

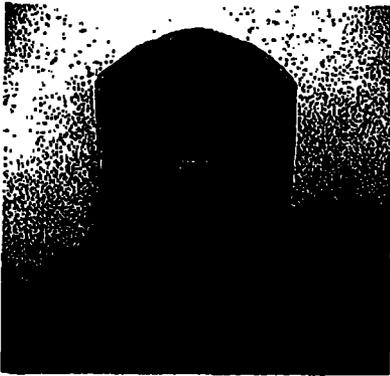
CAMDEN, NY 13316

Organization Authorizing Payment: Claudia For Congress

Authorizing Official: Brett Wakeman Phone:

Date: 9/19/2017

14092424001



Village of Camden

Police Department
Chief Daniel T. Maher
57 Main Street
Camden, NY 13316
Office: (315) 245-2022
Fax: (315) 245-4175

Law Enforcement and Security Detail Voucher

Date: 9/19/2017

Event: Claudia Tenney Campaign Event

Location: Nicole's of Camden, 9501 NY-13, Camden, NY 13316

Officer/Individual: Daniel Maher

Event Detail Pay Rate: \$75.00

Payment Address: 57 Main Street

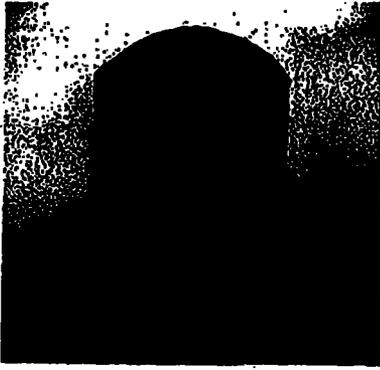
Camden NY 13316

Organization Authorizing Payment: Claudia For Congress

Authorizing Official: Brett Wakeman Phone:

Date: 9/19/2017

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Village of Camden

Police Department
Chief Daniel T. Maher
57 Main Street
Camden, NY 13316
Office: (315) 245-2022
Fax: (315) 245-4175

Law Enforcement and Security Detail Voucher

Date: 9/19/2017

Event: Claudia Tenney Campaign Event

Location: Nicole's of Camden, 9501 NY-13, Camden, NY 13316

Officer/Individual: Daniel SALCE

Event Detail Pay Rate: \$75.00

Payment Address: _____

Rome NY 13440

Organization Authorizing Payment: Claudia For Congress

Authorizing Official: Brett Wakeman Phone: _____

Date: 9/19/2017

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